



## Public Works

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FEB 10 2009

DEPARTMENT OF  
WATER RESOURCES

Neal S. Oldemeyer, P.E.  
Director

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Jim Tibbs

February 4, 2009

Gary Spackman  
Idaho Department of Water Resources  
1301 North Orchard Street  
Boise, Idaho 83706

RE: Draft Order for the Five Year Extension of the Moratorium of the Boise  
Front Low Temperature Geothermal Resource Groundwater Management  
Area

Dear Mr. Spackman:

This letter provides comments from the City of Boise in response to the January 13, 2009 letter from Jeff Peppersack enclosing the above-referenced draft order. The City of Boise is generally in favor of extending the referenced moratorium as proposed in the draft order, for the benefit of the geothermal resource. Within the moratorium framework, the City is continuing to pursue increases in geothermal water pumping volumes (production) via its existing wells and water right permits, restoring the water to the geothermal aquifer through the City's injection well. The City is pursuing these sustainable increases in cooperation with other interested geothermal heating system operators to provide geothermal heat to Boise State University and other additional downtown area buildings. Growing the City geothermal system service in this manner will produce substantial environmental and other public benefits.

In this context, we propose some additional text for "Findings of Fact", "Downtown-Table Rock Area", numbered item 6 on page 2 of the draft order. Numbered item 6 of the draft order states, "As of December 1, 2008, the City of Boise has not annually pumped volumes in excess of 200 million gallons per year." The following text should be added in numbered item 6 after this sentence: "However, the City has installed a system capable of pumping volumes much greater than 230 million gallons per year. The City reports that pumping volume for current geothermal heating commitments can approach 230 million gallons per year, particularly in a cold year. The City has plans and is pursuing allowance for pumping more than 230 million gallons per year under its existing permits, to meet additional demand for geothermal heating of Boise State University and other additional downtown area facilities."

The City is continuing to pursue allowance for pumping more than 230 million gallons per year ("MGY") under its existing geothermal water right permits (63-9138 and 63-9139), in cooperation with Boise Warm Springs Water District and other Downtown-Table Rock area geothermal heating system operators. The City is pursuing increasing this allowance within the criteria of the existing moratorium orders and the currently suspended City petition proceeding in which IDWR issued the September 6, 2002 order that authorizes the 230 MGY pumping level. We are confident that increased production through the City system under its existing permits can be sustained consistent with this criteria, and without harm to the aquifer system or existing water rights. The City has made significant investments to re-inject the geothermal water that we pump to restore the aquifer and allow for growth of geothermal heating service through the City system, without adverse effects.

A primary factor to consider in evaluating effects is net consumptive use of geothermal aquifer water ("net withdrawal") rather than just the volume of production pumping ("gross withdrawal"). By installing an injection well and other measures, the City of Boise has reduced its consumptive water use from the aquifer from 131 MGY in 1998 to, except for minor system losses, zero MGY in 2008. What the completion of the City injection well and the subsequent monitoring and aquifer studies have shown is that with proper re-injection there is little or no hydraulic impact on the geothermal aquifer. Three of the four geothermal systems operating in the Downtown-Table Rock area have injection wells and thus impose no net consumptive use of the geothermal aquifer.

City of Boise pumping volume has not yet increased beyond 200 MGY in part due to generally mild winter weather over the past several years, and also in part due to increases in efficiency. The City has developed our rate structure and regularly followed up with our customers with high usage with the goal of using the geothermal resource efficiently. Our system has increased from 41 to 58 customers from 1996 to 2008, nearly doubling the floor space heated from 2.0 to 3.8 million square feet, while increasing pumping production from 165 to 197 MGY. Some efficiency is being gained simply by adding customers to the distribution system, i.e., higher velocities in our piping delivers higher temperature water to our customers.

However, peak pumping volume for current City geothermal system heating commitments can approach 230 MGY, particularly in a cold year, and planned commitments for additional customers will require a pumping volume ceiling greater than 230 MGY. The ceiling must accommodate peak rather than average or usual heating years, and allow for contracting and commitments to provide heating to additional facilities in advance of construction and actual use. We note in particular that the City and Boise State University have worked for several years towards extending City geothermal system service to the BSU campus, and we predict that production will exceed 230 MGY between the 3<sup>rd</sup> and 4<sup>th</sup> building in the second group of BSU buildings planned for geothermal heating.

This is why the City has been negotiating with the other geothermal heating system operators who are parties to the City's suspended petition proceeding for an agreement where the City system production ceiling would be incrementally raised as required to meet increases in

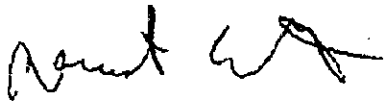
demand, with monitoring and other safeguards to protect the aquifer and other existing water rights. Such an agreement may be ready to present to IDWR in the near future.

The City geothermal heating system service should be allowed to expand consistent with protecting the Boise Front geothermal aquifer system as a sustainable resource. The aquifer system is a local and renewable resource and can help further to address the airshed quality problems that the Treasure Valley is facing, among other environmental and public dividends. Within the framework of the moratorium order during the next five years, we believe we can accomplish responsible growth of City geothermal heating services under the existing City water right permits.

We therefore support the proposed further five-year extension of the moratorium, as long as it does not impose additional restrictions that would apply to further development and use of the City geothermal heating system under the City's existing permits, beyond the criteria in the existing moratorium orders. We do not read the draft order enclosed with the January 13, 2009 letter to contain such additional restrictions. We recommend that the additional text that we have proposed in this letter for numbered item 6 on page 2 of the draft order be added to the order to clarify the status of development and use under the City's geothermal water right permits.

Thank you for the opportunity to comment. If you have questions or would like to discuss this matter further, please feel free to contact me.

Sincerely,



Kent A. Johnson, P.E.  
Geothermal Coordinator

Enclosures

KAJ/cvs

c: Jeff Peppersack, IDWR  
Bob Maynard, Perkins Coie LLP  
SF Geothermal Operations 2.3



Idaho Botanical Garden

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FEB 03 2009

DEPARTMENT OF  
WATER RESOURCES

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Arnie Wagner  
Kristy Weyrich  
Kathy Yoshida

Executive Director  
Julia Rundberg

Department of Water Resources  
Attn: Gary Spackman  
322 East Front Street  
P.O.Box 83720  
Boise, ID 83720-0098

January 30, 2009

Re: Draft Order for the Five Year Extension of the Moratorium of the Boise Front Low Temperature Geothermal Resource Ground Water Management Area

Dear Mr. Spackman,

The Idaho Botanical Garden (IBG) submits the following comments on the draft order for the five year extension of the moratorium of the Boise Front Low Temperature Geothermal Resource Ground Water Management Area, dated January 13, 2009. IBG is a private not-for-profit corporation established to create, establish and maintain a botanical garden and arboretum (the "Garden"). The Garden is located in the Old Penitentiary Historic District.

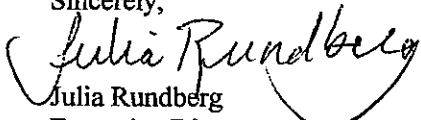
IBG would like the opportunity to explore sustainable uses for development of the Boise Front low temperature geothermal resource. There are existing geothermal wells in and around the Old Penitentiary Historic District, including one near the Garden. IBG is specifically interested in that particular geothermal well to heat its greenhouses, potentially using such approaches as reinjection of the geothermal waters after extraction or a closed loop system that draws heat from the geothermal resource without physically extracting any water.

IBG submits these comments to encourage the Department of Water Resources to allow for sustainable, "pilot" development projects, such as IBG's proposal to heat its greenhouses. IBG's proposed pilot project would demonstrate a sustainable use of the renewable geothermal resource. Responsible use of renewable resources to provide efficient, sustainable energy will benefit our community in many ways. This proposed pilot project would provide the Department and other potential water users (such as the Idaho State Historical Society and the domestic users within Boise's East End neighborhood) the opportunity to explore the development of the existing geothermal wells in ways that will ensure the sustainability of the geothermal resource.

In addition to the proposed pilot project, IBG supports exploration of the use of geothermal resources as an energy source for heating and cooling the many public and nonprofit buildings and facilities in the Old Penitentiary Historic District. This could result in significant cost savings for the public agencies and ultimately the residents of Idaho, as well as provide an opportunity to educate and demonstrate methods and benefits of sustainably utilizing geothermal resources.

Thank you for this opportunity to submit comments.

Sincerely,

  
Julia Rundberg  
Executive Director

**Gibson, Deborah**

---

**From:** Weaver, Mathew  
**Sent:** Thursday, February 12, 2009 2:58 PM  
**To:** Gibson, Deborah  
**Subject:** FW: Geothermal Moratorium Order

Debbie,

Should probably go in file with other correspondence.

Thanks,

Mat

---

**From:** Bruce M. Smith [mailto:BMS@msbtlaw.com]  
**Sent:** Thursday, February 12, 2009 2:43 PM  
**To:** Spackman, Gary  
**Cc:** Weaver, Mathew; Peppersack, Jeff  
**Subject:** RE: Geothermal Moratorium Order

Gary—The BWSWD board meeting was last night and they discussed the order. Thanks for the extension of time but the Board decided they had no comments to submit. Bruce

---

**From:** Spackman, Gary [mailto:Gary.Spackman@idwr.idaho.gov]  
**Sent:** Thursday, January 29, 2009 12:10 PM  
**To:** Bruce M. Smith  
**Cc:** Weaver, Mathew; Peppersack, Jeff  
**Subject:** RE: Geothermal Moratorium Order

Bruce,

That's fine. We won't execute until after February 20, 2009.  
Gary

---

**From:** Bruce M. Smith [mailto:BMS@msbtlaw.com]  
**Sent:** Tuesday, January 27, 2009 11:06 AM  
**To:** Spackman, Gary  
**Subject:** Geothermal Moratorium Order

Gary—I'm sending you a letter for the file but the proposed order was sent to my old address and I just got it. Response date is Friday. Because it raises new issues beyond the old orders, I need to run it by my board. I'm asking for extension to Feb 20 which is after my next Board meeting. Will this work for you? If not, please let me know so I can convene a special meeting. Thanks Bruce

2/12/2009

HOFSTETTER LAW OFFICE

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Dana@IdahoWaterLaw.com

Dana L. Hofstetter  
Attorney at Law

Telephone: (208) 424-7800  
Facsimile: (208) 424-8774

January 30, 2009

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FEB 02 2009

DEPARTMENT OF  
WATER RESOURCES

*Via Facsimile and U.S. Mail*

Gary Spackman  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098

Re: Draft Order for the Five Year Extension of the Moratorium of the Boise  
Front Low Temperature Geothermal Resource Ground Water Management Area

Dear Mr. Spackman:

I appreciate the opportunity to comment on the above-referenced Draft. Continuation of the moratorium is justified and the following comments relate to specific issues in the Draft, not to the broad principle of extension of the Moratorium.

While the Findings of Fact include good summaries of water level data, there is no discussion of temperature monitoring results. As you know, with the re-injection that is underway in the Ground Water Management Area, there is the real potential for temperature declines while water levels may remain constant or even improve. A decrease in temperature of the geothermal resource can in turn require increased diversion and use of the resource over time for heating the same square footage. Accordingly, temperature, along with water levels, is an important consideration in management of a water resource that is utilized chiefly for its heat content. Thus, it is recommended that the Findings of Fact be amended to include discussion of the recent temperature trend of the resource, along with the water level trend information.

Gary Spackman  
January 30, 2009  
Page 2

Confirmation of the inapplicability of the domestic water right exemption is appropriate. Since this is a statutory matter, the subject well owners previously have been using the resource without the requisite legal authority. The Department should not put the resource at additional risk by processing applications for such illegal water uses. Although some of these wells may have been issued drilling permits, the legal authorities are clear that the well drilling permit requirement is separate and apart from the water right requirement. Issuance of a well drilling permit does not remove the obligation of the well owner also to obtain the necessary water rights.

Thank you for your consideration of these comments.

Sincerely,

HOFSTETTER LAW OFFICE, LLC

A handwritten signature in cursive script, reading "Dana Hofstetter". The signature is written in black ink and is positioned above the printed name.

Dana L. Hofstetter

cc: Jeff Peppersack  
3006.3/8348

**Weaver, Mathew**

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**From:** Peppersack, Jeff  
**Sent:** Friday, January 30, 2009 5:06 PM  
**To:** Weaver, Mathew  
**Subject:** FW: 1-30-2009 Draft Order For The Five Year Extension Of The Moratorium of the Boise Front Low Temperature Resource Ground Water Management Area

and another...

---

**From:** Ed Squires [mailto:ed@hydrologicinc.net]  
**Sent:** Friday, January 30, 2009 4:53 PM  
**To:** Peppersack, Jeff  
**Cc:** Spackman, Gary  
**Subject:** 1-30-2009 Draft Order For The Five Year Extension Of The Moratorium of the Boise Front Low Temperature Resource Ground Water Management Area

**Hydro Logic, Inc.**

1002 W. Franklin St. Boise, ID 83702 (208) 342-8369 Fax: (208) 342-3100 Cell: (208) 631-6781

Jeff,

I am in receipt of your January 13, 2009 letter concerning a continuation of the current moratorium in the BFGWMA and request for comments on the same. Charlie Honsinger, of Ringert Law will be incorporating my comments with respect to my client, The Terteling Company, Inc. of State Water District 63-S.

Separately, though, I have the following comments, in general, about this situation as a friend of the Department:

**1) WELL NAMING:**

- a. I was surprised to see many of the LTG well names have been changed from historical usage?
- b. The LTG wells owned by TTCI on 36<sup>th</sup> Street are totally mis-named and have actually never been referred to in the way stated.
- c. Over the years, we have made a concerted effort to remain consistent with the well naming owing to the complicated confusion in the historical files from a host of well names (TTCI owns Silkey (shed), Tiegs (triangle), and Office (house) wells. These have maintained the historical significance of who had them drilled.
- d. The Boise Warm Springs Water District Wells, for example, have always been #1, #2, and #3 based on the drilling date. Now they are East and West and #3 with Well #3 being West of West?
- e. Quail Hollow wells have always been "Nibbler" (lower) and Tee Ltd. (upper).
- f. The Niznik well is the Stralow well. If we feel a need to refer to the well by its present owner, why not the Stralow (Niznik)?
- g. I am not sure where this arbitrary naming hierarchy stems from but it is not correct and, in my opinion, it matters because continual changing of names becomes confusing and mis-leading in the files..

2/6/2009



**2) DOMESTIC WELLS:**

- a. I support this progressive direction by the Department
- b. I would hope that all BFGWMA water users would get notified of all wells subject to the "grandfathering".
- c. The Department intends to restrict the intentional development of low-temperature geothermal waters for domestic purposes without a Permit application. What this does not seem to address, however, is the unintentional appropriation which should be a large concern and which has happened in many cases. For example, we know there are large areas that have no cold ground water aquifers between land surface and the geothermal aquifers. If the IDWR does not recognize this, they will allow a domestic well to be permitted for cold water uses but the driller keeps drilling and ultimately encounters hot water. After having spent the money, the owner wants to keep the well and use it so it then qualifies under the exemption *ii*.

**3) WATER YEAR 2008 DATA.**

- i. I think we are so close to having the 2008 Water Year Report, this data should be cited.

**4) THE HULLS GULCH AREA:**

- i. Now that the State has taken on the money pit that is J.R.'s mansion, it should also do the right thing concerning its water rights.
- ii. The former Simplot residence grounds (100 acres of them) are irrigated with low-temperature geothermal water wells.
- iii. Yet there are no controls, no monitoring, and the State could hook up to United Water or it could use the Cities non-injected LTG effluent perhaps.
- iv. This appears to me to be a large gap in our administration and understanding of the ground water resource.

**5) DISTRICT 63-S WATER LEVELS:**

- A. Why single out the Edwards well?
- B. I don't think DWR needs to make an example of Stewart Gulch, inferring continued drawdowns, as a means to continue the moratorium.
- C. I don't think it is correct to say that the water levels have not stabilized because these levels are very stable. Sure, the aquifer pressures vary proportionally with use but there are no signs of lowering pressures over all. Indeed, the pressures have recovered dramatically since the mid nineties. With the change in use, and relatively incomplete monitoring, I am not sure these statements are correct.
- D. I think there are plenty of good reasons to re-up the moratorium without singling out declining trends and non-stabilization of the Stewart Gulch wells as the reason; especially when the in-progress lawsuits may actually result in setting a reasonable pumping level here.

**6) RECOMMENDATIONS:**

- a. All domestic wells (cold and LTG) in the Boise Front should have to apply for a Permit before drilling a well and these should be accompanied by bonds and a prospectus to prevent additional, unintentional, development of LTG ground water.
- b. Suggest that all existing users are notified of the proposed grandfathering of Permits as

they are processed.

c. Continuation of Moratorium is recommended.

d. Develop Water Districts for the other LTG areas.

Thank you for notifying me of this and for taking my comments under advisement.

Ed Squires

2/6/2009



Idaho Botanical Garden

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JAN 30 2009

Department of Water Resources

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[info@idahobotanicalgarden.org](mailto:info@idahobotanicalgarden.org)

January 30, 2009

Board of Directors  
President  
Christopher Pooser  
Vice President  
Bert Ellis

Department of Water Resources  
Attn: Gary Spackman  
322 East Front Street  
P.O. Box 83720  
Boise, ID 83720-0098

Secretary  
Karan Tucker

Re: Draft Order for the Five Year Extension of the Moratorium of the Boise Front Low Temperature Geothermal Resource Ground Water Management Area

Treasurer  
Rick Richter

Dear Mr. Spackman,

Past President  
Katie Kirkpatrick

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Members  
Meredith Copsey  
Gina Hanks  
Jennifer Hemmer  
Sam Johnson  
Susie Lendvay  
Misty Mendenhall  
Eric Oehrke  
Amy Van Auker  
Arnie Wagner  
Kristy Weyrich  
Kathy Yoshida

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Executive Director  
Julia Rundberg

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Thank you for this opportunity to submit comments.

Sincerely,

  
Julia Rundberg  
Executive Director

## HOFSTETTER LAW OFFICE

608 West Franklin Street  
Boise, Idaho 83702

Dana@IdahoWaterLaw.com

Dana L. Hofstetter  
Attorney at Law

Telephone: (208) 424-7800  
Facsimile: (208) 424-8774

January 30, 2009

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JAN 30 2009

Department of Water Resources

*Via Facsimile and U.S. Mail*

Gary Spackman  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098

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Gary Spackman  
January 30, 2009  
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Thank you for your consideration of these comments.

Sincerely,

HOFSTETTER LAW OFFICE, LLC

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Dana L. Hofstetter

cc: Jeff Peppersack  
3006.3/8348

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JAN 28 2009

DEPARTMENT OF  
WATER RESOURCES

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www.perkinscoie.com

Robert A. Maynard

PHONE: (208) 387-7508

EMAIL: RMaynard@perkinscoie.com

January 28, 2009

Mr. Jeff Peppersack  
Idaho Department of Water Resources  
1301 N. Orchard St.  
Boise, ID 83706

By Hand Delivery

**Re: Draft Order for the Five Year Extension of the Moratorium of the Boise Front Low Temperature Geothermal Resource Ground Water Management Area; Request for Extension of Time to Comment**

Dear Mr. Peppersack:

As a follow up to our phone conversation yesterday, on behalf of the City of Boise I request a limited extension of time, to February 6, 2009, to submit comments regarding the above-referenced draft order enclosed with your January 13, 2009 letter to me.

The City plans to submit comments regarding the draft order that I believe IDWR will find helpful to review and consider prior to finalizing an order. However, the City's lead staff person for this matter is out of the office this week and I don't believe we will be able to finalize and provide comments by the January 30 date requested in your letter. We do plan to deliver comments no later than next Friday, February 6, 2009.

Thank you for your consideration of this request. If you have any questions, please contact me at 208-343-3434.

Sincerely,



Robert A. Maynard

RAM:ll

cc: Kent A. Johnson, P.E.  
John Tensen, City of Boise



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JAN 28 2009

DEPARTMENT OF  
WATER RESOURCES

January 27, 2009

Mr. Gary Spackman  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098

RE: Draft Order for the Extension of the Boise Front Geothermal Moratorium

Dear Mr. Spackman.

In a letter dated January 13, 2009, the Idaho Department of Water Resources (IDWR) sent notice of a draft order for the five year extension of the moratorium of the Boise Front Low Temperature Geothermal Resource Ground Water Management Area (BFGWMA).

The Harris Family Limited Partnership (Harris Family) has been an active participant in the on-going study of the BFGWMA by providing temperature and depth to water data collected from two geothermal wells on their property. The Harris Family also has an established water right for the low temperature geothermal aquifer (63-8627) and also an approved permit (63-9343) that is currently on hold in the moratorium. In order to preserve their interest and be an active participant in the use and development of the resource, several comments are offered on behalf of the Harris Family Limited Partnership.

To help clarify the limitations on future domestic appropriations, additional language should be added to the first "IT IS HEREBY ORDERED" to identify that only water less than 85 deg-F can be appropriated under the domestic purposes listed in Idaho Code 42-111 and that any drilling permit issued without a geothermal right will be conditioned to require drilling to be stopped at 85 deg-F.

Under the second "IT IS HEREBY ORDERED" the wording is that the Department shall not issue drilling permits for domestic purposes as defined by Idaho Code 42-111, or for any other purpose. The phrase "or for any other purpose" seems to remove the ability to drill a new geothermal well, even if a plan is provided to protect other users. Furthermore, this phrase may preclude existing geothermal production wells and reinjection wells from being able to be maintained, replaced, reconditioned, or deepened. The 1988 order allows for drilling and development, so long as the director of IDWR is satisfied that a number of criteria are met to protect other users. The City of Boise was able to expand their use of the resource under the provisions of the 1988 order. The current draft order could be read as removing that provision and stops any further development of the resource. We recommend that the phrase "or for any other purpose" be removed and that language be added to clearly retain the provisions of the original order allowing additional case-by case development.

Similarly, clarifying language should be added that existing domestic wells taking cold water cannot be deepened to take low temperature geothermal water. As it is written, the second "IT IS HEREBY ORDERED" could be read as allowing an existing water right holder to deepen their cold-water well and take water above 85 deg-F.

A minor edit is pointed out for item 22 under the Conclusions of Law section wherein a reference is made to the Twin Falls Moratorium Area.

Currently, the Harris Family is actively examining the feasibility of developing the low temperature geothermal resource as an alternative heating supply for a residential and commercial development. This study has been based on the provisions of the 1988 Order that allows for development, so long as the IDWR Director is satisfied that other users are protected. The last paragraph of the draft order requires that a petition for reconsideration or exceptions must be filed with the Department on or before March 16, 2009. Therefore, on behalf of the Harris Family, please accept this letter as a petition to state that the Harris Family intends to explore the feasibility of developing the low temperature geothermal resource as allowed under the 1988 moratorium provisions and permit 63-9343 and license 63-8627 and to engage in a discussion with IDWR and other stakeholders of the resource to achieve a viable development of the resource.

Regards,

A handwritten signature in black ink, reading "Steven R. Hannula". The signature is written in a cursive, flowing style.

Steven R. Hannula



# MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW  
950 W. BANNOCK STREET, SUITE 520; BOISE, ID 83702  
TELEPHONE: (208) 331-1800 FAX: (208) 331-1202 [www.msblaw.com](http://www.msblaw.com)

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BRUCE M. SMITH  
PAUL A. TURCKE\*  
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JOHN J. MCFADDEN\**of Counsel*  
MICHAEL C. MOORE\**of Counsel*

\* Also admitted in California  
\* Also admitted in Oregon  
\* Also admitted in South Dakota  
\* Also admitted in Utah  
\* Also admitted in Washington

January 26, 2009

RECEIVED

JAN 27 2009

Gary Spackman  
Administrator  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098

Department of Water Resources

*by fax*

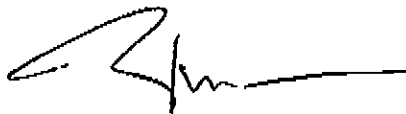
Re: Draft Order for the Five Year Extension of the Moratorium of the Boise Front  
Low Temperature Geothermal Resource Ground Water Management Area

Dear Gary:

The proposed order on the BFGA moratorium extension dated January 13, 2009, was sent to an old address and was not received by me until today. I need, and am requesting, an extension of time to respond. Since the order raises new issues beyond those in the previous orders, I will need to have the BWSWD board consider this. The next board meeting is February 18, 2009, so I would like to have until February 20, 2009, to respond. Thank you for your consideration of this request.

Sincerely,

MOORE SMITH BUXTON & TURCKE CHARTERED



Bruce M. Smith

BMS/ds